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ONE HUNDRED TENTH CONGRESS

**U.S. House of Representatives**  
**Committee on Energy and Commerce**  
**Washington, DC 20515-6115**

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December 5, 2007

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GREGG A. ROTHSCHILD, CHIEF COUNSEL

The Honorable Michael B. Mukasey  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Mr. Attorney General:

As the Committee in the U.S. House of Representatives with jurisdiction over telecommunications, we have been considering questions relating to whether telecommunications carriers should be afforded immunity from suit for potential violations of their customers' privacy rights. In response to our requests to the carriers for information, the carriers have informed us that a number of laws prevent them from responding to our inquiries. Two carriers stated that the Department of Justice (Department) has instructed that the carriers could neither confirm or deny their role in the programs at issue. Accordingly, on November 1, 2007, we wrote to Acting Attorney General Peter Keisler to request that the Department promptly provide us with a briefing detailing the basis for the Department's position. A copy of that letter is attached for your reference.

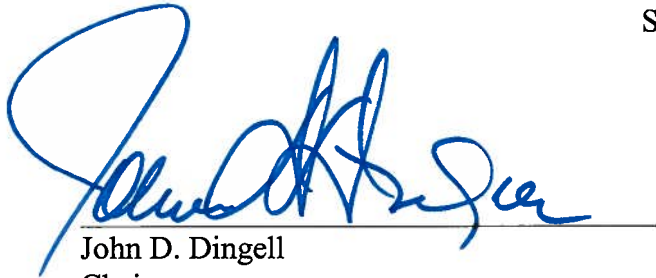
Although your Department's response to our letter was due on November 7, 2007, we have not received any response to date. Nor have we received any response to repeated telephone calls to your Department's Office of Legislative Affairs.

The failure of the Department to respond to a request for information within the scope of this Committee's jurisdiction is unacceptable. The Department is preventing telephone companies from defending themselves, depriving Congress of the ability to evaluate the legitimacy of their arguments for legislation. Until sufficient information is provided to the Committee to assist us in making informed public policy decisions concerning these important issues, we will not consider any requests for approving telecommunications carrier immunity. Likewise, we will also request that our colleagues in the Congress on other Committees with related jurisdiction decline to consider grants of immunity to telecommunications carriers.

The Honorable Michael B. Mukasey  
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We request that you contact us or have your staff contact John Sopko, Amy Levine, or Colin Crowell with the Committee staff at (202) 226-2424 at the earliest possible opportunity in order to arrange the requested briefing as soon as possible.

Sincerely,



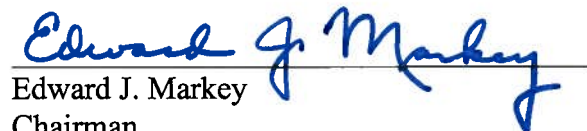
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John D. Dingell  
Chairman



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Bart Stupak  
Chairman  
Subcommittee on Oversight and Investigations



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Edward J. Markey  
Chairman  
Subcommittee on Telecommunications and  
the Internet

cc: The Honorable Joe Barton, Ranking Member  
Committee on Energy and Commerce

The Honorable Ed Whitfield, Ranking Member  
Subcommittee on Oversight and Investigations

The Honorable Fred Upton, Ranking Member  
Subcommittee on Telecommunications and the Internet

The Honorable Silvestre Reyes, Chairman  
Permanent Select Committee on Intelligence

The Honorable Peter Hoekstra, Ranking Member  
Permanent Select Committee on Intelligence

The Honorable John Conyers, Jr., Chairman  
Committee on the Judiciary

The Honorable Lamar S. Smith, Ranking Member  
Committee on the Judiciary

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November 1, 2007

The Honorable Peter D. Keisler  
Acting Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

Dear Mr. Keisler:

Congress is considering legislation regarding the Foreign Intelligence Surveillance Act. As part of that legislation, Congress is considering proposals concerning retroactive immunity to telecommunications companies widely reported to have been involved in the Administration's warrantless surveillance program.

As the House Committee with jurisdiction over telecommunications, we recently wrote to these companies requesting answers to a series of questions about the nature and extent of their participation in the program. The companies informed the Committee that they are unable to respond to our inquiries because any such information is within the control of the Administration; that if such information exists, it is classified and therefore the companies are unable to produce it; and that the United States has invoked the state secrets privilege as it relates to any such information, thereby preventing the companies from producing any such information.

In order for this Committee to consider any legislation involving immunity for telecommunications companies, we will need more information about the nature and extent of this program. Because the Administration is the only entity able to provide this information, we are formally requesting a briefing from the appropriate Administration personnel.

The Honorable Peter D. Keisler  
Page 2

Please contact Amy Levine, Colin Crowell, or John Sopko with Committee staff at (202) 226-2424, within one week of the date of this letter, to arrange the requested briefing.

Sincerely,



John D. Dingell  
Chairman



Bart Stupak  
Chairman  
Subcommittee on Oversight and Investigations



Edward J. Markey  
Chairman  
Subcommittee on Telecommunications and  
the Internet

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